

By Cain

H.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to abandonment of an action filed for review of a ruling, order, act, or failure to act by the Texas Water Rights Commission; amending Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 296, Acts of the 59th Legislature, Regular Session, 1965, is amended to read as follows:

"(a) Any person affected by the ruling, order, decision, or other act of the Commission, may, within 30 days after the date on which such act is performed, or, in case of a ruling, order, or decision, within 30 days after the effective date thereof, file a petition in an action to review, set aside, modify, or suspend such ruling, order, decision, or other act. Any party affected by the failure of the Commission to act in a reasonable time upon an application to appropriate water, or to perform with reasonable promptness any other duty imposed by this Chapter, may file a petition in an action to compel the Commission to show cause why it should not be directed by the court to take immediate action. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas. The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not give proper service, or does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the Attorney General unless the plaintiff after receiving due notice can show good and sufficient cause for the delay."

Sec. 2. The fact that the Commission may now be harassed by dilatory action on appeals from its decisions; the importance of this legislation; and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the Rule is hereby suspended.

Approved for printing 2/1/66

BILL ANALYSIS

(1) Background Information:

Presently there is no time limit by which a plaintiff must prosecute an appeal of a decision or ruling of the Water Rights Commission. This means that he could file an appeal and wait years to prosecute it, if indeed he chose to prosecute it at all. This is frustrating and dilatory to the Commission.

(2) What the Bill proposes to do:

H. B. No. 167 would require any plaintiff to reasonably prosecute their case within one year after the action is filed. Lines 36 through 43 are the new ones in this bill and are added to the existing section.

(3) Section Analysis

Section 1. Relates to an action filing for review of a ruling, or decision of the Texas Water Rights Commission.

Section 2. Declares an emergency.

(4) In Committee:

After full consideration of the bill by the Committee, same was referred to subcommittee. One amendment was suggested and accepted by the full committee, striking out the phrase "give proper notice" on line 38 of page 1 of the printed bill and by inserting in lieu of the phrase "secure proper service of citation". The bill was referred back to the House favorably, as amended, by unanimous vote.

FORM B

(For favorable reports on bills where committee amendments other than "committee substitutes" are recommended; and for resolutions where committee amendments, including complete substitutes, are recommended.)

COMMITTEE REPORT

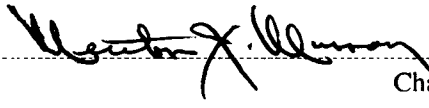
Date Feb. 28, 1967

HON. BEN BARNES

Speaker of the House of Representatives.

Sir:

We, your Committee on CONSERVATION & RECLAMATION, to whom was referred H. B. No. 167, have had the same under consideration and beg to report back with recommendation that it do pass, as amended, ~~and be printed~~


Chairman.

(In the case of simple and concurrent resolutions the words "and be printed" should be stricken out since resolutions are printed in the Journal when they are first introduced.

The word "not" should be inserted before "printed" only in case of a local bill reported favorably with amendments and ordered not printed, which is customary for local bills.)

COMMITTEE AMENDMENT

NO. 1

Committee Amendment #1

McDonnell

Amend HB 167 by deleting
the words ~~"give proper service"~~
"give proper service" appearing on
line 38 of the printed bill, and
substituting therefor the words
"secure proper service of process"

DATE MAR 7 1967

READ AND ADOPTED

Dorothy Hallman
CHIEF CLERK
HOUSE OF REPRESENTATIVES

By: Cain

H.B. No. 167

A BILL TO BE ENTITLED

AN ACT

relating to abandonment of an action filed for review of a ruling, order, act, or failure to act by the Texas Water Rights Commission; amending Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 296, Acts of the 59th Legislature, Regular Session, 1965, is amended to read as follows:

"(a) Any person affected by the ruling, order, decision, or other act of the Commission, may, within 30 days after the date on which such act is performed, or, in case of a ruling, order, or decision, within 30 days after the effective date thereof, file a petition in an action to review, set aside, modify, or suspend such ruling, order, decision, or other act. Any party affected by the failure of the Commission to act in a reasonable time upon an application to appropriate water, or to perform with reasonable promptness any other duty imposed by this Chapter, may file a petition in an action to compel the Commission to show cause why it should not be directed by the court to take immediate action. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas. The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does

H.B. No. 167

not secure proper service of process, or does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the Attorney General unless the plaintiff after receiving due notice can show good and sufficient cause for the delay.

Sec. 2. The fact that the Commission may now be harassed by dilatory action on appeals from its decisions; the importance of this legislation; and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the Rule is hereby suspended.

Austin, Texas

April 12, , 1967

Hon. Preston Smith
President of the Senate

Sir:

We, your Committee on Water and Conservation,
to which was referred H B. No. 167, have had the same
under consideration, and I am instructed to report it back to
the Senate with the recommendation that it do _____
pass _____ and be _____ printed.



Parkhouse
Chairman

ENROLLED

H.B. No. 167

AN ACT

relating to abandonment of an action filed for review of a ruling, order, act, or failure to act by the Texas Water Rights Commission; amending Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 296, Acts of the 59th Legislature, Regular Session, 1965, is amended to read as follows:

"(a) Any person affected by the ruling, order, decision, or other act of the Commission, may, within 30 days after the date on which such act is performed, or, in case of a ruling, order, or decision, within 30 days after the effective date thereof, file a petition in an action to review, set aside, modify, or suspend such ruling, order, decision, or other act. Any party affected by the failure of the Commission to act in a reasonable time upon an application to appropriate water, or to perform with reasonable promptness any other duty imposed by this Chapter, may file a petition in an action to compel the Commission to show cause why it should not be directed by the court to take immediate action. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas. The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does

not secure proper service of process, or does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the Attorney General unless the plaintiff after receiving due notice can show good and sufficient cause for the delay.

Sec. 2. The fact that the Commission may now be harassed by dilatory action on appeals from its decisions; the importance of this legislation, and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the Rule is hereby suspended.

H.B. No. 167

I hereby certify that H.B. No. 167 was passed by the Senate
on April 20, 1967, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED:

May 4, 1967
Date

John Conaway
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
1:56 pm O'CLOCK

MAY 4 1967

John L. Hill
Secretary of State

H.B. No. 167 By Cain

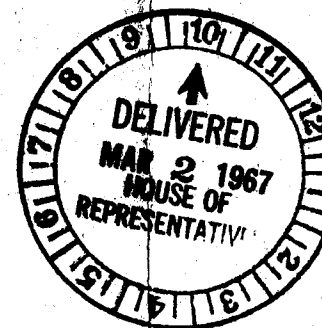
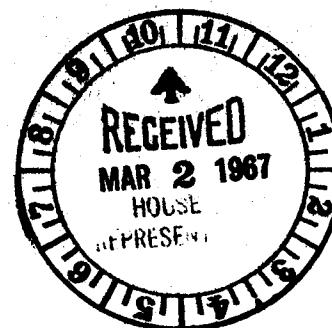
A BILL TO BE ENTITLED
AN ACT

relating to abandonment of an action filed for review of a ruling, order, act, or failure to act by the Texas Water Rights Commission; amending Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

FILED JAN 24 1967

JAN 26 1967 READ 1ST TIME
AND REFERRED TO COMMITTEE ON
Conservation &
Reclamation

MAR 1 1967 REPORTED FAVORABLY SENT TO PRINTER



MAR 7 1967 READ SECOND
TIME Amended AND

ORDERED non-record vote ENGROSSED by
Dorothy Hallman
Chief Clerk, House of Representatives

MAR 7 1967 Constitutional
Rule requiring bills to be read on
three several days suspended by
A four-fifths vote.
Yeas 132 Nays 7

AS AMENDED
Dorothy Hallman
Chief Clerk, House of Representatives

MAR 7 1967 Read third time
and Passed
by following vote: yeas non-record
Nays non-record
Dorothy Hallman
Chief Clerk
HOUSE OF REPRESENTATIVES

MAR 7 1967 MOTION TO RECONSIDER THE VOTE BY
WHICH HB #167 WAS
ADOPTED / PASSED AND TO TABLE THE MOTION
SIDER PREVAILED passed BY A non-record vote
AYES AND non-record
Dorothy Hallman
CHIEF CLERK HOUSE OF REPRESENTATIVES

MAR 7 1967 SENT TO ENGROSSING CLERK

PRINTED, DISTRIBUTED AND
REFERRED TO COMMITTEE ON
RULES 10:15 A.M. MAR 2 1967
(Time) (Date)

By: Cain

H.B. No. 167

A BILL TO BE ENTITLED

AN ACT

relating to abandonment of an action filed for review of a ruling, order, act, or failure to act by the Texas Water Rights Commission; amending Subsection (a) of Section 12, Article 7477, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

- 1-24-67 Filed.
- 1-26-67 Read first time and referred to Committee on Conservation and Reclamation.
- 3- 1-67 Reported favorably as amended, sent to printer.
- 3- 2-67 Printed, distributed and referred to Committee on Rules at 10:15 a.m.
- 3- 7-67 Read second time, amended and ordered engrossed by a non-record vote.
- 3- 7-67 Constitutional Rule requiring bills to be read on three several days suspended by a four-fifths vote: Yeas 132, Nays 7.
- 3- 7-67 Read third time and passed by a non-record vote.

Dorothy Hallman
Chief Clerk, H. of R.

- 3- 7-67 Sent to Engrossing Clerk.
- 3- 7-67 Engrossed.

Clean Duggan
Engrossing Clerk, H. of R.

MAR 8 1967 RETURNED FROM ENGROSSING CLERK SENT TO THE SENATE

MAR 8 1967
IN THE SENATE
Received from the House

APR 20 1967

Senate Rule 32 and
Constitutional Rule (Sec. 32, Art. III)
suspended by a vote of 31 yeas,
0 nays, to place bill on third
reading and final passage.

MAR 14 1967 Read first time
and referred to Committee
on Water and Conservation

APR 20 1967

READ THIRD TIME AND PASSED
BY THE FOLLOWING VOTE:

Yeas 31 Nays 0

Charles Schnabel
Secretary of the Senate

APR 20 1967

SENT TO HOUSE

APR 20 1967

RETURNED FROM SENATE

Dorothy Hallman
Chief Clerk, House of Representatives

APR 20 1967

READ SECOND TIME
AND PASSED TO THIRD READING.

APR 20 1967 SENT TO ENROLLING CLERK